



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2013

Ms. M. Ann Montgomery-Moran
Assistant Ellis County and District Attorney
109 South Jackson
Waxahachie, Texas 75165

OR2013-05317

Dear Ms. Montgomery-Moran:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 482984.

The Ellis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130 and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, including section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers

used or developed in an investigation under this chapter or in providing services as a result of an investigation.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(2) any information that is excepted from required disclosure under [the Act], or other law[.].

Fam. Code § 261.201(a), (k), (l)(2). Upon review, we find the submitted information was used or developed during the sheriff's office's investigation of alleged or suspected child abuse. *See id.* §§ 261.001 (defining "abuse" for purposes of chapter 261 of the Family Code), 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Accordingly, we determine the submitted information is within the scope of section 261.201 of the Family Code. However, the requestor is a parent of the child victim listed in the submitted report and is not alleged to have committed the alleged abuse. Therefore, the submitted information may not be withheld from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, section 261.201(l)(2) provides any information excepted from required disclosure under the Act or other law must be withheld from disclosure. *Id.* § 261.201(l)(2). You assert some of the submitted information is excepted from public disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. Accordingly, we address your arguments under those exceptions.

Section 552.101 of the Government Code also encompasses section 771.061 of the Health and Safety Code, which makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that is contained in an address database

maintained by a governmental entity or a third party used in providing computerized 9-1-1 service[.]” Health & Safety Code § 771.061(a). You explain Ellis County is a member of the Regional Planning Commission as set up through the North Central Texas Council of Governments, which establishes and operates 9-1-1 service to the region under chapter 771 of the Health and Safety Code. Therefore, to the extent the submitted information contains information that was required to be furnished to the sheriff’s office by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, the information is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999). However, information in the records at issue that was not required to be furnished to the sheriff’s office by a telecommunications service provider and is not contained in an address database used in providing computerized 9-1-1 service is not confidential under section 771.061, and may not be withheld under section 552.101.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the information you have marked pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable. Accordingly, the sheriff’s office may withhold the information you have marked under section 552.108(a)(2) of the Government Code.¹

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, and a personal identification document issued by an agency of this state or another state or country. *Id.* § 552.130. Although you raise section 552.130 for the remaining information, none of the information at issue contains motor vehicle record information. Consequently, section 552.130 does not apply and none of the remaining information may be withheld on this basis.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. *Id.* § 552.147(a). Although you contend the remaining information contains social security numbers, we find none of the remaining information contains social security numbers. Consequently, the sheriff’s office may not withhold any of the remaining information under section 552.147 of the Government Code.

¹As our ruling on this information is dispositive, we need not address your remaining argument against its disclosure.

In summary, to the extent the submitted information contains information that was required to be furnished to the sheriff's office by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, the information is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. The sheriff's office may withhold the information you have marked under section 552.108(a)(2) of the Government Code. The sheriff's office must release the remaining information.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 482984

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²We note the requestor has a special right of access to the information being released. See Fam. Code § 261.201(k). Accordingly, if the sheriff's office receives another request for this information from a different requestor, then the sheriff's office should again seek a decision from this office. See Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).